

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TREMAYNE HILL,

Plaintiff,

-against-

CITY OF NEW YORK; Police Officer CARLOS ANTON, and JOHN and JANE DOE 1 through 10, individually and in their official capacities (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.

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**FIRST AMENDED
COMPLAINT**

Jury Trial Demanded

14 CV 1712 (KAM)(MDG)

NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth, Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331 and 1343.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

PARTIES

6. Plaintiff Tremayne Hill (“plaintiff” or “Mr. Hill”) is a resident of Queens County in the City and State of New York.

7. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

8. Defendant Police Officer Carlos Anton (“Anton”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Anton is sued in his individual and official capacities.

9. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

10. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of the City of New York and the

NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

11. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

12. At approximately 11:00 p.m. on August 15, 2013, plaintiff was a passenger in a vehicle traveling in the vicinity of Sutter Avenue and Strauss Street in Brooklyn, New York.

13. Without any lawful basis to do so, defendants ordered the driver of the vehicle to pull over, conducted an extensive search of the vehicle and Mr. Hill, recovering no contraband.

14. Even though the officers lacked probable cause, arguable or otherwise, defendants falsely arrested Mr. Hill and took him to the 73rd Precinct.

15. At the precinct the officers falsely informed employees of the Kings County District Attorney's Office that they had observed Mr. Hill commit some crime or offense and prepared false paperwork, including an arrest report.

16. At no point did the officers observe Mr. Hill commit a crime.

17. Plaintiff was eventually taken to Brooklyn Central Booking.

18. After being incarcerated for approximately 24 hours, Mr. Hill was let out of the side door at Central Booking before being arraigned and appearing before a

Judge.

19. Plaintiff suffered damage as a result of defendants' actions. Plaintiff was deprived of his liberty, suffered emotional distress, mental anguish, fear, anxiety, embarrassment, humiliation, and damage to his reputation.

FIRST CLAIM
Unlawful Stop and Search

20. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

21. Defendants violated the Fourth and Fourteenth Amendments because they stopped and searched plaintiff without reasonable suspicion.

22. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages herein before alleged.

SECOND CLAIM
False Arrest

23. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

24. Defendants violated the Fourth and Fourteenth Amendments because they arrested plaintiff without probable cause.

25. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

THIRD CLAIM
Denial Of Constitutional Right To Fair Trial

26. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

27. The individual defendants created false evidence against plaintiff.

28. The individual defendants forwarded false evidence to prosecutors in the Kings County District Attorney's office.

29. In creating false evidence against plaintiff, and in forwarding false information to prosecutors, the individual defendants violated plaintiff's right to a fair trial under the Due Process Clause of the Fifth, Sixth and Fourteenth Amendments of the United States Constitution.

30. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

FOURTH CLAIM
Failure To Intervene

31. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

32. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

33. Accordingly, the defendants who failed to intervene violated the Fourth, Fifth, Sixth and Fourteenth Amendments.

34. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

FIFTH CLAIM
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35. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

36. This is not an isolated incident.

37. The City of New York (the “City”), through policies, practices and customs, directly caused the constitutional violations suffered by plaintiff.

38. The City, through its police department, has had and still has hiring practices that it knows will lead to the hiring of police officers lacking the intellectual capacity and moral fortitude to discharge their duties in accordance with the constitution and is indifferent to the consequences.

39. The City, through its police department, has a *de facto* policy of arresting passengers, for alleged VTL violations committed by the drivers of those vehicles, for which the passenger could not conceivably have any responsibility.

40. The City, at all relevant times, was, upon information and belief, aware that these individual defendants routinely commit constitutional violations such as those at issue here and has failed to change its policies, practices and customs to stop this behavior.

41. The City, at all relevant times, was aware that these individual defendants are unfit officers who have previously committed the acts alleged herein and/or have a propensity for unconstitutional conduct.

42. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

DATED: August 22, 2014
New York, New York

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